

COMMONWEALTH OF VIRGINIA
VIRGINIA EMPLOYMENT COMMISSION

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Title:	Existing Worker Strategy

PURPOSE

The purpose of this policy is to describe the use of Workforce Investment Act (WIA) statewide and local formula funding to create innovative incumbent worker programs and early intervention for layoff aversion strategies that serve Virginia businesses.

REFERENCES

Code of Virginia, Section 2.2-2670

Public Law 105-220, Workforce Investment Act of 1998 (WIA), Section 134(a)

20 CFR Part 652 et al., 665, 665.310 and 665.320

Virginia Workforce Council, Strategic Plan for 2002-2005

DOL ETA Waiver Regarding Use of Title I Formula Funds for Incumbent Worker Training granted Virginia on August 3, 2005

POLICY STATEMENT

The Virginia Workforce Council's (VWC) vision for the Commonwealth is to have and promote a well-trained, well-educated, highly skilled and qualified workforce that understands and meets the needs of employers and that is actively engaged in lifelong learning. The VWC intends to ensure that workforce development services for the existing workforce are coordinated and that prospective strategies are developed for rapid access to the range of assistance through statewide and local initiatives. The VWC recognizes that improving the education and skill levels of the current workforce will not only improve the state's economy and fiscal well being, but will also increase the ability of businesses to effectively compete in the global economy.

In general, strategies for the existing workforce should be designed to benefit business and industry by assisting in the skill development of existing employees (incumbent workers) and increasing employee productivity, and the growth of the company. Existing worker programs create a number of positive outcomes including: expansion of worker skills into new industry-demanded requirements; new career opportunities; retention of jobs that otherwise may have been eliminated; retention of existing personnel who otherwise may have left an organization; increase in the wages for trained workers; create opportunities for entry level workers through the advancement of existing workers; and overall enhancement of the local and regional economic development efforts for the Commonwealth of Virginia.

WIA funds may be expended for incumbent worker training. WIA funds will be made available through an employer application and eligibility process designed to assist Virginia businesses to meet the diverse skills training needs of the incumbent workforce.

Similarly, WIA funds may also be expended for the development of layoff aversion strategies. WIA funds will be made available to assist Virginia businesses for early intervention to avoid layoff situations utilizing business retention plans. For initiatives using statewide funds, a funding cap for employers will be applied and driven by the amount of funds available each year. For local initiatives using local Title I funds, up to 25% of each year's adult and dislocated worker allocation may be used for allowable incumbent worker training activities, with each local workforce board having wide policy discretion on any cap for amounts an eligible employer or business may be granted.

The VWC promotes diverse approaches in addressing employer needs through the coordination of existing workforce programs that are administered by various state agencies. The WIA Division of the Virginia Employment Commission (VEC) shall provide coordination, as the state grant administrator for the WIA. At the local level, similar diverse approaches are expected and will be coordinated by the local workforce investment board, or its designee.

Employer focused existing workforce programs to be coordinated at the state and local levels include, but are not limited to: incumbent worker programs authorized by the WIA, layoff aversion strategies authorized by the WIA, workforce services provided by the Department of Business Assistance, the Virginia Works program of the Virginia Community College System, and incumbent worker training provided by the Local Workforce Investment Areas. The state and localities may maximize this investment by leveraging monies from other state, federal, and private resources.

A. STATE INCUMBENT WORKER TRAINING (SIWT)

Applications for the State Incumbent Worker Training Program (SIWTP) are open to all Virginia businesses that have been in operation for a minimum of one year prior to the application date and that require training for existing employees. With the high demand and limited funding available, applicants are encouraged to form training consortiums with other businesses to address training for skill sets that are shared across industry sectors.

Funding priority will be given to companies with 100 or fewer employees, which meet at least one of the following criteria: businesses located in rural or distressed inner-city areas; businesses located in empowerment and enterprise zones; businesses whose grant proposals represent a significant layoff avoidance strategy; businesses that employ job creation strategies for entry level workers; or businesses whose grant proposals represent a significant upgrade in employee skills, or lead to industry-based certification.

Training services may be provided through Virginia's community colleges, school districts, area vocational-technical centers, state universities, licensed and certified post

secondary private institutions and from subject matter experts, consultants, or trainers from the applying business. Employers are encouraged to use the State approved Eligible Training Providers List, Workforce Access Program and Fund Providers List or outside private trainers to identify potential training providers.

Training can be conducted at the employer's own facility, at the training provider's facility or at a combination of sites. Businesses must provide a minimum 50/50 matching contribution to the training project. The match may include in-kind services. SIWTP funds are not intended to supplant training normally provided by employers. If applicable, employers must provide previous three-year and current training budgets.

Early Intervention For Layoff Aversion

Among the activities allowed by the WIA is an assessment of the potential for averting layoff(s) in consultation with state or local economic development agencies. These activities are locally driven by the needs of the affected businesses and employees and are intended to occur much earlier than traditional rapid response activities. Assessment of the potential reason for a plant closing or mass layoff is required, including an assessment of the stability of the company. If there is an indication that a business closing or mass layoff might be averted, technical assistance may be provided to interested parties to investigate possible layoff aversion strategies. This may include a pre-feasibility study for a company or group, including the workers, to purchase the plant or company and continue operations.

To qualify for layoff aversion program, companies must develop a comprehensive layoff aversion plan. The following should be considered in developing aversion/business retention strategy: skills scan of employees; utilization of Labor/Management Committees (where appropriate); incumbent worker training/skills upgrading; customized training/on-the-job training; employee stock option purchase; shared work program; and solicitation of buyer through economic development partners. A company must also consider critical factors that must be in place or other entities that must be involved in order to ensure success of the aversion plan. Funds will be disbursed through individual contracts.

The Department of Business Assistance, through contract with the VEC, will issue application guidelines and procedures for SIWT Programs and Early Intervention for Layoff Aversion. Workforce Investment Boards (WIBs) should coordinate with DBA, assist in communications about the programs, and in identifying eligible employers.

B. LOCAL INCUMBENT WORKER TRAINING (LIWT)

The incumbent worker waiver granted Virginia allows local workforce investment boards to implement innovative incumbent worker training consistent with how the State is able to conduct such activities under Section 134 of the WIA and 665.200-220 of the Final Regulations. While the waiver allows local workforce areas to use up to 25% of each year's adult and dislocated worker formula allocation to train incumbent workers, local initiatives must be in accordance with WIA regulations, the waiver granted Virginia by

DOL ETA, local requirements contained in this policy, and any local policy promulgated by local workforce boards.

The goal of the Local Incumbent Worker training waiver is to allow Local Workforce Investment Boards (LWIBs) flexibility, if determined necessary at the local level, to be more responsive in the provision of employer services to meet the needs of the employer community by providing educational and skills training for incumbent workers. The Local incumbent worker training initiative must be structured to meet employer and business training objectives by enhancing the skills of existing employees, resulting in increased employee productivity and potential company growth. Likewise, incumbent workers develop new, higher level skills that benefit their employers, facilitate transition between jobs, and enhance their chances for retention and their potential for increased earnings. In turn, prospering businesses combined with a more highly skilled workforce greatly contribute to a successful and thriving economy, there-by creating employment opportunities and prospect of self-sufficiency for other entry-level workers.

Establishing Local Incumbent Worker Training Initiatives

Local workforce investment boards (LWIBs) must submit a local plan revision to the State in addition to requesting a local fund designation for incumbent worker training. The plan revision must identify the exact percentage of local funds to be set aside, up to 25% of each year's adult and dislocated worker formula allocation, for the period of the plan. Set-aside or transferred funds must be expended in accordance with allocation cycles.

The plan revision must describe the training services and activities to be funded and a target number of employers and incumbent workers that will benefit from use of the funds. It must describe how the incumbent worker training services align with the local plan's strategic goals, and ensure that the training is for high demand, or high growth occupations. In addition, the plan revision must identify projected employer and incumbent worker related outcomes expected as a result of the training and how attainment of the outcomes will be accomplished. The criteria used to determine the outcomes and the projected levels of success must be clearly stated.

The State will review the plan revision(s) annually and evaluate the effectiveness of the LIWT initiative. LWIBs must develop policies and procedures for the oversight and evaluation of their Incumbent Worker Training initiatives to ensure completion of training objectives, outcome expectations, and compliance with the State's LIWT guidelines.

Individuals Impacted by the LIWT

Local incumbent worker training should directly benefit incumbent workers and their employers in meeting skill demands in support of local economic development. However, nothing in this policy is intended to preclude local areas from involvement in collaborative, regional or statewide initiatives. In addition, activities should align with the

Governor's economic development goals of retraining and assisting existing employers that have specialized training needs in order to remain competitive in the global and competitive economy. Through the LIWT initiatives, local workforce boards should be able to partner with more employers, labor, and community organizations to promote access by workers to one-stop training services.

Local Incumbent Worker Training Eligibility

- a. Eligibility Requirements for Incumbent Workers--There is no income eligibility for Incumbent Workers, however, the following minimum requirements must apply:
- Incumbent worker must be 18 years old and above, a U.S. citizen or non-U.S. citizen legally authorized to work in the United States, and comply with Selective Service provisions.
 - Incumbent worker must be currently employed full-time with LIWT participating employer.
 - Incumbent worker needs skill upgrading or retraining, completion of GED or High School Diploma, basic skills upgrade, etc. to be able to retain and be successful in current employment.
- b. Eligibility Requirements for Employers participating in LIWT--The following minimum eligibility requirements for LIWT for employers/businesses must be used and included in the LWIBs' LIWT policies and procedures:

Employers must be:

- Private for profit or private not-for-profit business
- Operating in the Commonwealth of Virginia during the entire twelve month period prior to LIWT application date
- Current on all Virginia tax obligations, including all applicable county, city and local taxes
- Propose training for employees at a Virginia facility

The following employers/businesses are not eligible to participate in the LIWT:

- A business currently receiving training funds from the VA state government unless those training funds do not duplicate the training efforts outlined in the LIWT application.
- A business that has a history or pattern of failing to provide WIA participants with continued employment with wages, benefits, and working conditions that are equal to those provided to regular employees who have worked a similar length of time and are doing the same type of work.
- A business or part of a business that has relocated from any location in the United States, until the company has operated for

120 days, if the relocation has resulted in any employee losing his or her jobs at the original location.

- Training Provider
- Local Workforce Investment Board
- Local or state government entity

Pursuant to WIA Section 667.268(a)(2)(b)(1)92), a new or expanding business must verify whether it has relocated employment from another area, and must, indicate whether any employee lost a job in the previous location as a result of the re-location.

A standardized pre-award review must be completed and documented jointly between the local area and the business establishment as a pre-requisite to training.

Local Incumbent Worker Training Qualifications Process

Employers and incumbent workers should be provided information on services and resources available through the local one-stop workforce and career service delivery system, including information on the local incumbent worker-training program. The provision of information may serve as a minimum core service for the purpose of the incumbent worker. Although the provision of information would not directly improve the worker skills to satisfy the employer business needs, provision of the information may serve as a qualifier for the worker's access to other services. Each incumbent worker who receives training must be assessed and determined by the employer as in need of the education/ training/retraining to meet the business skill needs of the employer. For the purpose of the local incumbent worker-training program, the employer's assessment of the worker's skills and the determination that the worker requires skill improvement serve as an intensive service and may result in immediate qualification for training.

Types of Training Available Through Local Initiatives

Training activities under the LIWT initiative may include **but not be limited** to Occupational Skills Training, Skill Upgrading and Retraining, Literacy Activities related to Basic Work Readiness, Job Readiness Training or Work Readiness training, On-the-Job Training, and Customized Training.

Similar to the State Incumbent Worker Training initiatives, training services under local initiatives may be provided through Virginia's community colleges, school districts, area vocational-technical centers, state universities, licensed and certified post secondary private institutions and from subject matter experts, consultants, or trainers from the applying business. Where necessary, the local workforce board should expand its Approved Training Providers List to include these and other training provides of interest to employers. Employers should be encouraged to use the State approved Eligible Training Providers List. Training can be conducted at the employer's facility, at the training provider's facility or at a combination of sites.

Proposed training costs must be reasonable and necessary and clearly relate to the purposes and activities of the project as described. Businesses must provide a minimum of 50/50 fund match contribution to the local incumbent training project. The match may include in-kind services. LIWT funds are not intended to supplant training normally provided by employers.

Performance Standards For Incumbent Workers

Although incumbent worker activities in Virginia are viewed as business and employer services, to the extent local programs provide WIA funding to train and/or retrain workers, certain of the WIA performance standards apply:

- Local incumbent workers are included in the area's adult retention standard;
- Local incumbent workers are included in the area's adult earnings change/wage replacement standard;
- Local incumbent workers are included in the area's employment and credential standard.

Local incumbent workers are excluded from the adult entered employment standard.

RECISIONS:

APPROVED: Marjorie M. Connelly, Chair
Virginia Workforce Council

Dolores A. Esser, Commissioner
Virginia Employment Commission

DATE: _____